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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,400	02/06/2001	Todd M. Schulze	AD#-103	4532

23658 7590 04/04/2002

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EXAMINER

AMIRI, NAHID

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 04/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/777,400

Applicant(s)

SCHULZE ET AL.

Examiner

Nahid Amiri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 6, 10 and 11 is/are allowed.
- 6) ☐ Claim(s) 1-4 and 7-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 1,578,947(Alber).

In regard to claims 1, 9: Alber discloses except the length of body portion. In FIG. 1-8, column 1, line 100-105 that anchor 1 plant on planking board 29 and on column 2, line 67-69, that the length of anchor 1 is adjustable to fit the types of sleepers or studdings in use and is expanding in a direction of the thickness of the concrete wall and there is space between the planking board and the surface on which the concrete wall is poured. In FIG. 7, column 2, line 80-85 shows that weldment plate include the aligning board 29 with extended anchor 1, by using nails 37 to secure the anchor to board 29. It would have been an obvious matter of design choice to have different dimension, since Alber has not disclosed the exact dimension of body portion it will not create any problem or is for any particular purpose and it appears that the invention would perform equally well with length of anchor is given by Alber in order to hold the planking board (weldment plate) in proper position until the wet concrete sets up.

2. Claims 2-4, 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alber in view of U.S Patent No. 3333380(Wolf).

In regard to claims 2-4, 7-8: Alber discloses the claimed invention except for the body portion been adjustable and length is adjustable by manually removing excess length, also to

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have minimum concrete surface treatment from taper when the body portion made of plastic, metal and powder metal. Wolf teaches that in order to have adjustable length the anchor 1 comprises two component, first component tabular sleeves 5 with plurality of holes 6 are adapted to receive the second component cylindrical supporting rods 8 and by cotter pins 11 may be inserted into and passed through one of the transverse bores 7 in rods 8 and pair of opposite holes 6 in the sleeves 5 for the purpose of adjusting manually relative to each other in order to achieve the desire length. The free end of each anchor is acute conical spike 9 with an annular groove 10 to exert a minimum treatment to the concrete wall that made of steel (metal) or for having lower cost made of plastic. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to maintained desirable length and minimize the treatment to concrete and it is made of different type of material such as plastic or metal as taught by Wolf states in FIG. 1-7, column 1-3, line 65-75 and line 1-16.

*Allowable Subject Matter*


3. Claims 5-6, 10-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (703) 305-4142. The examiner can normally be reached on Monday-Friday from 8:00-4:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Carl Friedman can be reached at (703) 308-0839.

na

March 14, 2002



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600